



April 30, 2013

House Oversight Committee
Michigan House of Representatives
P.O. Box 30036
Lansing, MI 48909

RE: House Bill 4363

Dear Chairman McMillin and Committee Members:

The Michigan Townships Association is opposed to HB 4363 as we were to similar legislation last session. The question has often been asked - may township officials participate in a meeting or hearing via teleconferencing?

This question has been responded to in the affirmative by both the Michigan Court of Appeals and the Michigan Attorney General, but not specifically regarding township meetings. Those opinions concerned hearing officer proceedings under the Department of Social Services and Intermediate School District meetings, respectively.

In the Court of Appeals decision *Goode vs. Michigan Department of Social Services*, 143 Mich App 756 (1985), the court was confronted with the validity of a contested case hearing before the Michigan Department of Social Services hearing officer wherein the Department of Social Services officially permitted teleconference hearings as distinguished from hearings in which all panel members were physically present at the location of the hearing. The Act under which the hearings were held specifically provided that they have to be held in accordance with the Michigan Open Meetings Act.

The court held that the purpose of the Open Meetings Act was to provide openness to the public of meetings and hearings. Proceeding through teleconference calls with speaker phones audible to all in the meeting room and with the ability of the public to attend at all locations involved in the teleconferencing fully complied with the Open Meetings Act. The court further stated:

“While we recognize that to actually see and observe all the witnesses and the hearing officer is desirable, we do not find it necessary.”

This case was sought to be appealed to the Michigan Supreme Court which denied leave to appeal at 442 Mich 882.

The Michigan Attorney General in Opinion #6835 of February 13, 1995 was confronted with the question of whether an intermediate school district consisting of several constituent districts with representatives from each could hold its annual budget meeting by means of interactive television. The budget of such intermediate district was required to be approved by a majority of the school board representatives of constituent districts.

---Over---

House Oversight Committee
April 30, 2013
Page 2

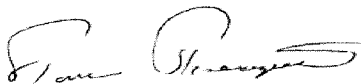
The Attorney General concluded that a representative did not have to be physically present at the meeting but could be present through interactive television and comply with the Open Meetings Act. The Attorney General referred to the foregoing Goode case and concluded that interactive television was even more desirable than the teleconferencing medium sanctioned in the Goode case.

The Attorney General added that “the central site must be set up so that interaction among all the representatives of the constituent districts, whether they be on or off that site, and interested members of the public” is possible and provided for. This Attorney General’s Opinion of 1995 appears to overrule his initial Opinion #5183 of 1977 which was issued prior to any court decision interpreting the OMA and prohibited teleconferencing for meetings.

The appellate court of Illinois in the case of Freedom Oil Company v Illinois Pollution Control Board, 275 ILL. App. 3rd 508; 655 NE2d 1184 (1995) cited the Michigan Goode case among others and held that a meeting in which two of a six member board were physically present at the meeting place and four were telephonically connected complied with the Illinois Open Meetings Act which was similar to the Michigan Act. In this connection, it held that a quorum was not required to be physically present and could be composed of members present through telecommunication. It held that whereas the better practice would be to have written rules concerning such procedure in place, the failure to have such rules did not void such telecommunication meetings.

MTA recognizes the courts and Attorney General have indicated general use of telecommunication is an available method which, if properly handled, does not eliminate public participation and openness of public action. Where the input of an absent member is deemed desirable, the Telecommunication Tool has been determined to be available. Having said this, MTA is certainly open to changes in the Open Meetings Act that would clarify quorum issues and the establishment of standards for when a quorum could be achieved through using today’s technology. We stand ready and willing to work with the sponsor and committee members on this issue.

Sincerely,



Thomas E. Frazier
Legislative Liaison

Special Feature



Trustee continues to serve community during deployment

Through the use of technology and the cooperation of his township board—and his Army National Guard unit—**Madison Charter Township** (Lenawee Co.) Trustee **Chad Rodgers** will maintain his role on the township board during a year-long deployment in Afghanistan. To participate in board meetings, Rodgers plans to use Skype, an online voice and video software application, and other electronic forms of communication.

Though he said he has not heard of other officials using such technology to allow for continued service on their township board, Rodgers—who has used Skype before—thought it was an ideal way to stay involved in his community and continue to serve township residents, even from half a world away. “I figured if I can talk to my family using Skype, why not stay involved in board meetings,” said Rodgers.



Rodgers

According to MTA Legal Counsel, as long as a board member's comments can be heard by the other board members and members of the public, the board member can cast votes and participate in meetings by electronic communications.

DEDICATED TO PUBLIC SERVICE

A member of the Army National Guard since 2009, Rodgers is serving his second term as township trustee. A decorated veteran of Operation Desert Storm, Rodgers served a tour of duty in southwest Asia during his four years as a corporal/team leader in the U.S. Marine Corp from 1990 to 1994. “There is more of a [communications] infrastructure in Iraq than Afghanistan, so if Skype won't work, I can use a cellular service provider and participate in board meetings via voice communications,” he explained. He also intends to use email and Facebook to communicate with fellow board members and township residents.

An on-call firefighter/paramedic for the township, Rodgers is also a certified emergency medical services instructor and works as a full-time police officer for the nearby City of Tecumseh.

Rodgers, who is also pursuing a master's in public administration from Eastern Michigan University, is already prepared for handling the 8½ hour-plus time difference between Michigan and Afghanistan. The Madison Charter Township board meets on the second Tuesday of every month. “I'll need to wake up at 3:30 a.m. to participate in the 7 p.m. meetings,” he explained. “As long as the missions that I am on permit, I will attempt to participate in every meeting.”

Rodgers was not at liberty to discuss details of his deployment, which was set to begin in September, with pre-deployment training at various locations within the U.S. until his departure for Afghanistan toward the latter part of 2011.

Ashley Bowman,

MTA Communications Coordinator



Townships are a unique kind of community, and they need an engineer who knows how they tick.

P&N represents 46 Michigan communities as Township Engineer. If you're looking for someone who speaks your language, give us a call.

Prein&Newhof
www.preinnewhof.com (516) 364-8401

